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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,663	07/17/2000	David Edward Gindelberger	2000U004.US	8193

7590 01/29/2003

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 01/29/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/617,663

Applicant(s)  
Gindelberger et al.

Examiner  
J. Pasterczyk

Art Unit  
1755



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 13, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 24-41 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. This Office action is in response to the amendment filed 11/13/02 and refers to the first Office action mailed 10/22/02.

2. The abstract of the disclosure is objected to because it is not drawn to the invention as now claimed, and specifically lacks mention that the transition metal compound is of a group 4 metal with phenoxide ligands having ortho imine groups. Correction is required. See MPEP § 608.01(b).

3. Claims 24-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24, first line after the structures, delete "selected from"; in the next line change "and a" to --or-- for consistent closed Markush language. In the last line, since this formula describes only the activator without having been supported yet, the value of n should be 3; otherwise, lower values would indicate that the aluminum compound has already been supported.

In claim 25, l. 2 after "selected from" insert --the group consisting of-- for clear closed Markush language.

In claim 29, l. 2 delete "selected from:", and in the last line change "and" to --or-- for clear closed Markush language.

In claim 31, l. 2, correct the spelling to --hydroxyl--.

In claim 34, first line after the structures, delete "selected from:"; in the next line change "and a" to --or-- for consistent closed Markush language.

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In claim 35, in the last line, since this formula describes only the activator without having been supported yet, the value of n should be 3; otherwise, lower values would indicate that the aluminum compound has already been supported.

In claim 36, l. 2, after "selected from" insert --the group consisting of-- for clear closed Markush language.

In claim 39 "the aluminum atom" lacks clear antecedent basis since the activator is not yet claimed as having an aluminum atom.

In claim 40, l. 2 delete "selected from:"; in the next line change "and" to --or-- for clear closed Markush language.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 24-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteker as cited in paragraph 9 of the first Office action in view of Holtcamp as cited in paragraph 10 of the previous Office action.

Whiteker discloses a catalyst compound reading on that of the present invention (col. 2, l. 1 to col. 7, l. 11; col. 8, l. 10-16; col. 10, l. 42-55). Note in particular that col. 3, l. 41-58 only forbids the ortho group from being a pyridine in most instances, and forbids it from being an imine only when the metal is nickel, contrary to applicant's belief.

Whiteker lacks disclosure of how an aluminum compound reacts with a support to become affixed to it.

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However, Holtcamp at p. 18, example 5 shows that a tris(perfluorophenyl)aluminum reacts with residual hydroxy groups on silica to form covalent bonds between the aluminum and the oxygen with a pentafluorobenzene leaving group.

It would have been obvious to one of ordinary skill in the art to apply the teaching of Holtcamp to the disclosure of Whiteker with a reasonable expectation of obtaining a highly-useful olefin polymerization catalyst and method of making it with the expected benefit of the catalyst being usable in slurry and gas phase polymerizations.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Mark L. Bell  
Supervisory Patent Examiner  
Technology Center 1700



J. Pasterczyk

1/24/03